

reagent chemicals are encapsulated inside the sensor instead of applied on the surface of the reagent pad. Since it is designed for in vivo use, the sensor has to be inserted inside the body and therefore it is invasive. It teaches away what the present invention teaches: minimally invasive diagnostics. Thus, applicant submit that Curry ('929) should not be used to reject the claimed invention.

Conclusion

For all of the reasons given above, applicant submits that the claims are now in proper form and that the claims all define patentably over prior art. Therefore, applicant submits that this application is now in condition for allowance, which action he respectfully solicits.

Request for Assistance in Writing Acceptable Claims Pursuant to MPEP § 2173.02 and § 707.07(j).

As described in the patent application and in this amendment, it is submitted that patentable subject matter is clearly present. However, since applicant is a small entity independent inventor, he may not possess all the skills to write acceptable claims. If the examiner agrees but does not feel that the present claims are technically adequate, applicant respectfully requests that the examiner write claims for him pursuant to MPEP § 2173.02 and § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible without the need for further proceedings. Applicant expresses sincere appreciations and thanks if such assistance is granted.

Very respectfully,



Tom C. Xu

Applicant

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Certificate of Mailing: I certify that on the date below this document and referenced attachments, if any, will be deposited with the U. S. Postal Service as first class mail in an envelop addressed to:

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 9, 2003



Tom C. Xu

Applicant



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February 5, 2001

Dr. Tom Xu
SenseCare Technologies
21010 Sherman Drive
Castro Valley CA 94522
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CONFIDENTIALITY AGREEMENT

THIS AGREEMENT shall govern the conditions of disclosure by **SenseCare Technologies** to LifeScan, Inc. ("LIFESCAN") of certain information considered by you to be confidential, relating to **minimally invasive and painless colorimetric blood glucose monitoring technologies (see attachment)** for the purpose of determining whether LIFESCAN desires to enter into a license or co-development arrangement with SenseCare Technologies.

- 1) All information considered to be confidential and proprietary shall be disclosed in writing and marked "Confidential", or if disclosed orally or visually, will be identified as being confidential at the time of disclosure and confirmed in writing within thirty (30) days (hereinafter "Confidential Information").

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- 2) LIFESCAN agrees that all Confidential Information received under this Agreement shall be maintained in confidence and used by LIFESCAN only for the purpose set forth above for a period of three (3) years from the effective date of this Agreement. LIFESCAN shall use the same standard of care to protect the confidentiality of such information as it uses to protect its own confidential information and shall limit disclosure of such information to those of its personnel, its consultants and personnel of other Johnson & Johnson companies who have an actual need to know and have a written obligation to protect the confidentiality of such information.
- 3) Notwithstanding the preceding provisions, the obligations of LIFESCAN regarding confidentiality of information disclosed hereunder shall not apply to:
 - a) information which, at the time of disclosure, was published, known publicly, or otherwise in the public domain;
 - b) information which, after disclosure, is published, becomes known publicly, or otherwise becomes part of the public domain through no fault of LIFESCAN;
 - c) information which, prior to the time of disclosure, is known to LIFESCAN as evidenced by its written records;



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- d) information which, after disclosure, is made available to LIFESCAN in good faith by a third party under no obligation of confidentiality to you; and
 - e) information which is subsequently developed by LIFESCAN independently, without recourse to information disclosed hereunder.
- 4) You represent and warrant that you have the right and authority to enter into this Agreement, to disclose Confidential Information to LIFESCAN, and to transfer all rights to such Confidential Information to LIFESCAN if you and LIFESCAN should so agree.
- 5) The disclosure of Confidential Information hereunder shall not result in any right or license being granted to LIFESCAN under any patent or patent application owned by you.
- 6) No information regarding this Agreement or the interest of LIFESCAN in the subject matter hereof shall be disclosed to any third party without the prior written consent of LIFESCAN.

LIFESCAN

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- 7) The effective date of the Agreement shall be the latest date of signature as set forth below.

ACCEPTED AND AGREED TO:
SenseCare Technologies

By: Mr. Yu

Title: Owner

Date: 2/5/2001

LIFESCAN INC.

By: Susan A. Evans
Susan A. Evans, Ph.D.
Vice President,
Research, Development
and Engineering

Date: February 5, 2001

(Yeung Yu)